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"Legal Tenders have been the cause of the overthrow of every financial system into which they have been introduced."—ESSAY ON AMERICAN PAPER MONEY.

1281]

[1282

PAPER AGAINST GOLD:

BEING AN EXAMINATION

OF THE

Report of the Bullion Committee:

IN A SERIES OF LETTERS

TO THE

TRADESMEN AND FARMERS

IN AND NEAR SALISBURY.

LETTER XXII.

The question of Legal Tender in Bank of England Notes—Two Letters received from Correspondents as to the true construction and practice of the Act of 1797—How far the Bank of England Notes are a legal tender—They are so as far as relates to debts due from the Bank of England including the Dividends—Not so with regard to debts and contracts between man and man—Any holder of a Country Bank-note may compel the payment of it in the Coin of the kingdom—This proved by the decision in the Case of Grigby against Oakes—The opinions of the four Judges in that Case—The justice of this decision—The reason why people have not hitherto compelled the Country Bankers to pay their notes in coin.

Gentlemen,

The proposed subject of this Letter, was, an inquiry into the rate of the depreciation of the paper-money; but, two letters, which I have received, in the last six days, the one from Glasgow and the other from the neighbourhood of Exeter, induce me to devote this present Letter to the answering of them, they being upon the very important subject of the legal tender.

The writer of the first letter expresses his doubts as to the correctness of my exposition of the Bank Stoppage, or Restriction Act, (See Letter XVI, page 908,) and his wishes that I would give him my opinion again, after having taken time to revise what I before said upon this part of the

subject. My correspondent near Exeter, who tells me that he is a farmer, thanks me for the useful information that he is so good as to say he has received from this series of Letters, and begs me, in a very earnest manner, to tell him, whether I am quite sure, that I was correct, when I said, that any holder of Country Bank notes might compel the payment of them in gold and silver. Both these gentlemen have put their names to their letters; but, as the same doubts and uncertainties may have occurred to others of my readers, I shall give my answer in this public manner, and, after having so done, there will, I trust, remain no doubt or uncertainty at all.

I stated to you, Gentlemen, in Letter XVI, that, as far as related to debts due from the Bank of England, the notes of that Bank were, by the Act of 1797, called the Bank Stoppage, or Restriction, Act, made a legal tender; that is to say, that the creditor was compelled to take those notes in payment, or to go without any payment at all. If, for instance, any one of you has a Bank of England note of ten pounds, and carry it to Threadneedle Street for payment, the Bank Company may compel you to take other of their notes in payment, or, they may, if you refuse such notes in payment, refuse you payment in any thing else.

It is the same with regard to the payment of the dividends, that is to say, the interest of the Stocks or Funds. If, for instance, our neighbour, GRIZZLE GREENHORN, when she goes to receive her half-year's interest upon her Stock, which, you know, is paid her by the Bank Company, were to say: "pay me in good gold and silver," would, or might, receive for answer, an assertion, that the law, the Act of 1797, protected the Bank Company against such an unreasonable demand. In a word, the Bank Company might refuse, absolutely refuse, to pay her her interest in any thing but their own promissory notes; and, then, if she tendered them those promissory notes for payment, they might refuse to pay them in any thing but other of

their own notes; that is to say, they would be ready to give her *fresh promises to pay* in lieu of the promises to pay which they had given her before; but, she could not compel them to give her one shilling's worth of gold or silver, except there might be due to her, in the way of interest, any *fractional part of a pound*.

Thus far, then, the Bank Company's notes are a *legal tender*. And, in the affairs between man and man, if such notes be once *accepted and received* in payment of any debt whatever, they are, *after such acceptance and receipt*, to be considered as a legal payment in that case. If, for instance, I owe my neighbour a hundred pounds, and tender him Bank of England notes in payment, and he *receive* them in payment to the amount of the sum due to him, he is paid, I am acquitted of my debt; he cannot afterwards sue me for the debt, upon the ground, that I have not paid him *money*, as he might do in the case of other promissory notes, if there were no particular agreement to bar him.

But, here the legal tender of Bank of England notes stops. They are not *yet*, in any other case, put upon a footing with money. As to all the transactions between man and man, except in the above circumstances, which can occur only where the Bank of England itself is a party, no person is obliged to take Bank of England Notes in payment of any debt, or legal demand. And, this is a thing well worthy of the attention of all those, who have it in contemplation to enter into contracts which are to have a *future operation*; for, if the value of gold and silver, compared with that of Bank notes, should continue to increase, those who now make contracts for payments to be made some years hence, should bear it constantly in mind, that the party to whom they will have to make such payment, will, at all times, have it in his power to *insist upon gold coin in payment*.

If this be the law, without any other exceptions than those above named, it follows, of course, that I can have not the least hesitation in telling my Devonshire correspondent, that I am *quite sure*, that any holder of a *Country Bank* note has it, at all times, in his power to *compel the payment of it in gold or silver coin from the King's mint and of full weight and due fineness*. I know, that a different notion has

prevailed; and, I have heard it said, or seen it stated in print, that this *compulsion* cannot be effected; because, it has been said, if you were to bring your action of debt against Paperkite and Co. they would *pay the amount into Court in Bank of England notes*; and that, upon proof of their having done this being produced, the Court would stop the proceedings, or at least, throw all the costs thereafter incurred, *upon you*.

This would, indeed, make the Bank of England notes a legal tender *in fact*, though not *in law*; or, in other words, it would make an Act of Parliament a mere delusion, a shuffle, a cheat, a base premeditated fraud. But, this is all a mistake; it is not founded in fact; the Courts would attempt to do no such thing; for, if one could, in any case, suppose the inclination to exist in the mind of a Judge, he would not do it, nor think of it, in the face of what has already been done.

The question has been *decided*, and that, too, with all possible solemnity, as will appear from the case which I am now about to lay before you, and the perusal of which will remove all doubts whatever upon the subject. There appears to have been no doubt about the *letter* of the law, in the mind of either of my correspondents; but they both doubt of its *interpretation in the Courts*; and the last mentioned gentleman says, that, though upon the *face* of the Act, there is nothing to warrant the supposition, that a holder of a *Country Bank* note could not compel the payment of it in gold and silver, yet he thinks, that such holder would, by the judicial construction of the Act, be defeated in any attempt to compel such payment; and, he seems to think, that this is pretty clearly demonstrated in the fact (as he supposes it to be), that no one has ever yet attempted to compel *Country Bankers* to pay their notes in gold and silver.

He will, doubtless, be surprised to find, that the attempt has not only been *made*, but that it fully *succeeded*. In the year 1801, four years after the Bank Stoppage, or Restriction, Act was passed, a Mr. GRIGBY, in the county of Suffolk, went to the Bank Shop of Messrs. OAKES and Co. of St. Edmunds Bury, and, in presenting them one of their own Five Guinea notes for payment, demanded *money*. The Bankers tendered him a *five pound Bank of*

England note, and five shillings, which he refused to receive, saying, that the five pound Bank of England note was not money, and that he would not take it. The Bankers told him, that, if he wanted specie for his accommodation, they would let him have it. He declined to receive it in that way; he said that he stood in no need of it as an accommodation; that he demanded it as a right; and that, unless they paid him in the coin of the kingdom, he would bring an action of debt against them. Upon this ground they refused him payment in coin, whereupon he brought his action and obtained a verdict in his favour at the Assizes; but the question of law was, upon the motion of the Defendant's counsel, reserved for decision by the Judges; and the following is the Report of the Case, as argued before, and determined by the four Judges, of the COURT OF COMMON PLEAS, on the 19th of Nov. 1801.

"GRIGBY against OAKES and Another.

"—This was an action on a promissory note; the Defendants as to all but five guineas pleaded *non assumpsit*, and as to the remaining five guineas they pleaded a tender. The cause came on to be tried at the Summer Assizes for Suffolk, before Mr. Baron Hoitham, when a verdict was found for the Plaintiff, with one shilling damages, subject to the opinion of the Court upon the following case. The Defendants are Bankers at Bury St. Edmunds, and issued the note in question for five guineas, payable on demand to the bearer. On the 31st of January last, the Plaintiff carried several notes to the shop of the Defendant, and demanded payment. He first presented other notes, to the amount of 50 guineas, for which he received payment, partly in Bank of England notes and partly in cash, the cash being ten pounds, and being the proportion of money they usually pay. He then presented the note in question, for which the Defendants tendered in payment a 5*l.* Bank of England note and five shillings in silver. This the Plaintiff refused on the ground that the tender was partly in a Bank of England note, objecting to such note, and insisted on being paid wholly in money. The Defendants refused to pay wholly in money. The Plaintiff did not at the time say he wanted money for his own particular accommodation, but stated that he came on purpose to have cash for the note, or

to bring an action if payment in money was refused.

"The question for the opinion of the Court was, Whether under the circumstances before stated, the Plaintiff was entitled to recover?

"Serjeant SHEPHERD, for the Defendants, argued, that though unquestionably previous to the passing of the 37 Geo. 3, c. 45, commonly called the Bank Act, a bank note would not have been a legal tender, yet that, since the passing of the above act such notes must be considered as cash, for that the necessary consequence of the above act being to absorb a vast proportion of the actual cash of the country, the Legislature must have intended to give a new character to bank notes by way of substitute; that they had specifically declared them to be a good tender so as to prevent an arrest, and yet if the same spirit which actuated the present Plaintiff in the commencement of this action was to continue to influence his conduct, and that of others also, a Defendant, though exempted from arrest, might ultimately be taken in execution, though ready to pay in bank notes, since he might possibly be unable to satisfy the judgment obtained against him altogether in money; because even if a sale of his goods took place, the Sheriff might not be able to avoid receiving a large proportion of bank notes from the purchasers; that, indeed, in some respects, bank notes were privileged by the 37 Geo. 3, c. 45, beyond cash, inasmuch as a tender of them in satisfaction of a debt operated to discharge a party from arrest, which was not the case with a tender of money, which must be pleaded in bar; and that no contrary inference could be drawn from the 8th section of the act, which declared payments in bank notes to be equivalent to payments in cash, if made and accepted as such, because that must have been the case before the passing of the act, and therefore that clause must be deemed nugatory.

"Serjeant SELLON, on the other side, was stopped by the Court.

"LORD ALVANLEY, (*Chief Justice*).—The question for the Court to decide is a mere question of law, arising, as it has been contended, out of the provisions of the 37 Geo. 3, c. 45. In fact we are called upon to say whether it follows as a necessary consequence from that act, that a tender in bank notes is equivalent

"to a tender in money? It may be very
 "true that individuals may be occasion-
 "ally subjected to great inconveniences
 "from the operation of that act; but are
 "we therefore to say that the Legislature
 "has enacted that which the provisions of
 "the act do not warrant? If we were at
 "liberty to refer to our own private know-
 "ledge of the language that was held in
 "Parliament while this act was pending,
 "no doubt could be entertained upon the
 "subject. We know that it was very
 "much canvassed at that time, Whether
 "or not the Legislature ought to go the
 "length of declaring bank notes a good
 "legal tender? If, therefore, it had been
 "intended by the Legislature so to make
 "them, that intention would have been
 "expressed in such clear terms that no
 "question could have arisen upon the
 "subject. Indeed, it is expressly pro-
 "vided, in the 2nd section of the act, that
 "if the Governor and Company of the
 "Bank of England shall be sued on any
 "of their notes, or for any sum of money,
 "payment of which in their notes the
 "party suing refuses to accept, they may
 "apply to the Court in which such pro-
 "ceedings are instituted, to stay proceed-
 "ings during such time as they are re-
 "stricted from paying in cash. But with
 "respect to individuals it was not intended
 "to prevent any creditor, who should be
 "so disposed, from captiously demanding
 "a payment in money, though such a
 "creditor is deprived of the benefit of ar-
 "resting his debtor. Thank God, few
 "such creditors as the present Plaintiff
 "have been found since the passing of the
 "act! But yet, whatever inconveniences
 "may arise, and to whatever length they
 "may go, Parliament and not this Court
 "must be applied to for a remedy. In-
 "convenience arising from the operation
 "of an act of Parliament, can be no
 "ground of argument in a Court of law;
 "and even if it were, still I should enter-
 "tain no doubt, that it was the intention
 "of the Legislature to make bank notes a
 "legal payment only in certain cases by
 "them expressed, and that in all other
 "cases they should remain upon the
 "same footing upon which they stood be-
 "fore the act, except as to the exemption
 "from arrest, which they afford to the
 "party tendering them in payment. The
 "8th section of the act, which has been
 "treated as nugatory in the argument,
 "however it may enact nothing new, still
 "appears to me pregnant with the inten-

"tions of parliament, and to speak loudly
 "the resolution not to alter the character
 "of bank notes, but in those cases which
 "are specially provided for. Without
 "however referring to any of those spe-
 "cific clauses, and arguing from them as
 "to the intent of the Legislature, I should
 "be clearly of opinion, that the present
 "Plaintiff is entitled to our judgment in
 "his favour.

"Judge HEATH. I am of the same opi-
 "nion. The question for us to decide is,
 "whether a tender in Bank notes is a
 "good legal tender? Now the 37 Geo.
 "3. c. 45. appears to me to negative that
 "question; for the several provisions of
 "the act making them a good legal ten-
 "der in certain excepted cases, excludes
 "the idea of their being so generally in
 "cases not provided for by the act. It
 "has been argued, however, that the op-
 "eration of the act will in many cases be
 "very injurious, unless we determine it
 "to be a necessary inference from the
 "act that Bank notes were intended by
 "the Legislature to be put upon the same
 "footing as cash. But whatever incon-
 "veniences may arise, the Courts of Law
 "cannot apply a remedy. I think,
 "indeed, the Legislature acted wisely,
 "having the recent example of France
 "before their eyes, to avoid making bank
 "notes a legal tender; for in France we
 "know that legislative provisions of that
 "kind in favour of paper currency only
 "tended to depreciate the paper it was de-
 "signed to protect, and were ultimately re-
 "pealed, as injurious in their nature."

"Judge ROOKE. I am of the same
 "opinion."

"Judge CHAMBRE. This case appears
 "to me almost too plain for argu-
 "ment. It has been thought that the
 "Courts went a great way in holding
 "a tender in bank notes to be a good ten-
 "der, if not objected to at the time.
 "Certainly that was an innovation;
 "though perhaps a beneficial one. But
 "the act upon which the present question
 "arises affords nothing but arguments
 "against the inference attempted to be
 "drawn by it. Surely the observation
 "that in some respects the Legislature
 "have put bank notes on a more favoura-
 "ble footing than cash, leads to a con-
 "clusion directly contrary to that which
 "it was intended to support. If the Le-
 "gisature have not gone far enough it is
 "for them, not for us, to remedy the de-
 "fect. Indeed, by making bank notes a

"good tender in certain cases, specifically provided for, they appear to me to have negatived the construction we are now desired to put upon the act."

It will hardly be doubted, that I have copied this report with great care. I have, indeed, given every word of it; but, for the satisfaction of my correspondents, to whom I am really obliged for their inquiries, I will add, that the report is taken from a well known Law-Book, entitled, "*Bosanquet's and Puller's Reports of Cases argued and determined in the Court of Common Pleas and Exchequer Chamber and in the House of Lords, from Michaelmas Term, in the 40th year of the reign of George III. (1799) to Michaelmas Term, in the 42nd Year of the same reign (1801,) both inclusive.*"

After reading this report, there cannot remain, in the mind of any man, the smallest doubt upon this subject. Here is the fact, in practice as well as in theory, clearly established, that any holder of a *Country Bank* note, payable to bearer on demand, or the holder of any such note, except of the Bank of England, may, at any time, when he pleases, demand payment of such note in the gold and silver coin issued from the King's mint, that coin being of legal weight and fineness. And, if such payment be refused, upon demand, the holder of such note may immediately proceed to sue for such payment, which, if the party sued has the means, he must finally pay in coin, together with full costs of suit.*

And, indeed, if this was not the law, the Bank of England notes would be a *legal tender* to all intents and purposes; for, the issuers of these notes being protected by law against the holders of them, the holder of a *Country Bank* note would have no claim upon the Country Banker, or upon any body else, for coin. The man who chooses to take a Bank of England note, does it knowing that he cannot

* The *shilling damages*, mentioned in the first part of the above Report, is merely the *nominal damages*, which it is the custom to lay, in cases where the object, as in this case, is to ascertain the question of right. But, the Plaintiff had his *costs of suit* in this case, as every other plaintiff must have, who brings an action in a similar way, and on similar grounds.

force any one to pay him its nominal amount in coin; and, therefore if he choose to take it, he has no reason to complain. Persons, who buy Stock, know that they are to be paid their interest in Bank of England notes; and, therefore, they have no reason to complain. But, if either of you sell your corn or your wool, and take a *Country Bank* note for it, that is to say, the promissory note of your neighbour; you expect to have the *real worth* of your corn, or your wool; and, of course, you expect to be paid by your neighbour in the *real money of the kingdom*, which money, as I have now shewn you, you have a *legal*, as well as a *moral*, right to demand.

Lest any one should raise a doubt upon the circumstance of Mr. GRIGBY's demand having been founded upon a note given for *guineas* instead of *pounds*, I beg you to observe, that this circumstance was not even alluded to by either of the Judges, or by the Counsel who argued against Mr. GRIGBY. You will perceive, besides, that the Judges speak generally of *all debts*, except those only due from the Bank of England itself. The decision is founded upon the broad principle, that Bank of England notes may be refused in *all cases*, except only those wherein the *Bank of England itself is the debtor*, including the dividends upon the National Debt, and there the Bank is regarded as the debtor to the Stock holder.

It is also worthy of your observation, that, though the Chief Justice seemed to think, that it might become necessary to make the Bank of England Notes a *legal tender* in *all cases*, another of the Judges expressed himself as decidedly of opinion, that such a measure would be both unjust and impolitic; and, indeed, that it would be, in part, at least, to imitate the measures of ROBESPEIRE, who compelled the people of France to take paper-money upon pain of death.

If it should be asked, why other persons have not done as Mr. GRIGBY did, the answer is, that the people of this country, generally speaking, have really thought, that, by the Act of 1797, the Bank of England notes were made, to all intents and purposes, a *legal tender*, and, of course, that, if a man refused to take them in payment, he had not the means of forcing the debtor to pay him in any other sort of thing.

Nor is this generally prevailing error to be much wondered at, seeing what were the *means* made use of at the time of the Bank Stoppage. When you reflect upon the famous *meeting* and *resolutions* at the *Mansion-House* in London, the secret history of which I have given you. When you reflect upon the effect of these *RESOLUTIONS*, issued under the signature of the *LORD MAYOR*; followed, as they immediately were by *Resolutions*, of a similar purport, from the *PRIVY COUNCIL*, and from the *Justices assembled in Quarter Sessions*, in the several counties. When you reflect on the *official manner*, and the *authoritative air* of all these promulgations, you will cease to wonder, that the *Resolutions* to take and pay the paper of the Bank of England were, by the mass of the people, regarded as having the *force of law*.

Now, however, you know the true value of those *Resolutions*; you know what is, and what is not, the law, relating to this important matter, in which every man of you is so deeply interested, and on your judgment and discretion with respect to which may depend the permanent welfare of yourselves and your families, to assist in the advancement of which welfare has always been, and always will be, a principal object of the labours of

Your faithful friend,

WM. COBBETT.

State Prison, Newgate, Monday,
December 24, 1810.

SUMMARY OF POLITICS.

LIBEL TRIAL. MORNING POST.—In my last Number I not only noticed the late prosecution of *BYRNE*, the proprietor of the *Morning Post*, for libelling *MR. HUGH BELL*, but I inserted the newspaper Report of the Trial itself.—On the 22nd instant, this man inserted the following notification in his paper.—“We thank our *numerous friends* for the “very gratifying expression of their feelings” with which they have favoured us upon “the subject of a late extraordinary verdict. “Never, perhaps, was *public astonishment* “more universally or forcibly expressed than “on this occasion; and the Public may “rest assured that until the matter is set “right, we will never lose sight of the subject.”—Oh! his “numerous friends,” of the “fashionable world,” I suppose! I wonder he had not published a regular *bulletin*, and a list of the kind inquirers,

who had left their names.—Verily this is too stale a device even to impose upon the “fashionable world.”—*Inquiries!* What, the gentleman is ill, is he? Kind inquiries after him! Oh, the consummate coxcomb! as if there were one single thing in human shape that could possibly have any other feeling than that of the most contemptuous risibility upon such an occasion.—But he *complains*, does he? Aye, and he arraigns the verdict too. He calls it an “EXTRAORDINARY verdict;” he says that the verdict has called forth universal “public astonishment;” and he says that he will never lose sight of the subject, “till the matter is set right.” What, then, the verdict was *wrong*, was it? The venal gentleman differs from most people upon that point, I believe; but, at any rate, it is not amiss to hear *him* complain of verdicts; *him* who has constantly not only approved of every heavy sentence upon every other author or publisher, but who has complained that they have been let off too lightly, and who has only wanted the wit to make their sufferings a subject of merriment, and who, in the use of his despicable talent at punning, called *MR. GALE JONES*, *Gaul Jones*. He, this jester at the fate of other publishers, is a proper person, it is becoming in him, truly, to talk of the “extraordinary verdict,” of the “public astonishment,” occasioned by a verdict, which makes him disgorge 500 pounds for having most grossly and malignantly libelled, having held up as a *traitor*, a perfectly respectable and loyal gentleman.—He will say, perhaps, that he has treated many and many other such men in the same way. That is very true; but that is no justification for having thus treated *MR. BELL*, and most people will, I suppose, think it an aggravation.—There is hardly, nay, there is not one man in England, Ireland, or Scotland, who has been at all conspicuous as a friend of public liberty, whom this man has not, first or last, represented as a *traitor*. Not as a malcontent or a demagogue or a factious person, but as a friend of France, as a friend of the country’s known enemy, that is to say, a *traitor*. And now, behold! because only one out of hundreds demands, in the fairest possible way, justice for these false and wicked accusations, the calumniator crys out *hardship*, and tells the world, that his “numerous friends,” are leaving their cards to inquire how he does, as if he were a lady in the straw! A goodly group, truly, these kind inquirers would form if

one could see them collected together. —In my former article upon this subject, I omitted to mention the name of Mr. CLIFFORD, who has, upon numerous occasions, shewn that sort of *spirit*, which is, now-a-days, so rarely to be met with at the bar, or at least, as far as I have been able to perceive.

LIBEL TRIAL. ANTI-JACOBIN REVIEW.

—In another part of this Number will be found the report of the trial of MESSRS. CRADOCK and JOY, of Paternoster Row, publishers of the *Anti-Jacobin Review*, against whom an information was granted, in the Court of King's Bench, for a libel on a DOCTOR HODGSON of Oxford, published in the said work, which imputed to the Doctor the most base conduct that can be conceived; nothing less than that of keeping back a letter, which a brother Clergyman entrusted him to put in the post, and by the means of which act, he, the Doctor, secured to himself an office in the University, which the letter was intended to put into the hands of another Clergyman. —This wicked libel, the whole story of which, like that in the *Morning Post*, was, it appears, *false*, was, the reader will observe, published in the *Anti-Jacobin Review*. This base attack upon a man's character, and that, too, from motives too evident to point out to any one who reads the report of the trial, has, the reader will bear in mind, found its way into the world under the garb of *Anti-Jacobinism*. —This work has, however, existed by such means. It has administered food to the most base and malignant and corrupt part of the community, who alone have touched it, for many years past. —It has been the constant calumniator of every man who has been regarded as an enemy to corruption. —The two booksellers, who have thus exposed themselves to punishment, are not much to be pitied. They must have known the general contents of the work. They must have known its malignant tendency. They must have known, that it has been merely a vehicle of political falshood and deception, under the name and garb of literary criticisms. And, if they find it *worth their while* to screen the *author*, they, of course, ought to suffer for what he has done. —They have published *falsehoods*; and, if those falsehoods are injurious to their neighbour's character, they ought to suffer for publishing them. They are not, it is true, the *authors*; but, they choose to

stand in the author's shoes, and of course, we are to conclude, that they are to be compensated for it. Indeed, viewing the matter in this light, there is much less mercy due to them than there would be to the author himself; for, to be *known* as the author of a base falshood is part of the punishment, and, to *know* his malignant adversary is part of the satisfaction to the injured person. Therefore, if these booksellers, from whatever weighty considerations, choose to screen the author of a base falshood from this part of his punishment, and to deprive the injured person of this part of his satisfaction, they must of course, expect to sustain this much of punishment more than would be due to the author, however malignant a wretch he may be, and however dirty his motives; and, there is good reason to suppose, that the author here screened, is, in either respect, hardly to be matched. To keep this man from exposure is a most detestable act; an act injurious to the public at large, to whom he ought to be known, and to whom, in all his Protean shapes he ought, he must, be, one of these days, openly exhibited, together with all his various means of existence. —In the meanwhile, the booksellers, Messrs. CRADOCK and JOY, as they have chosen to stand god-father for him, will, of course, find a religious consolation in answering for his sins, albeit a task of no common magnitude. —The proceedings upon this trial, from which it appears, that the *proprietors* are kept wholly out of sight, naturally suggest the question, *why* the proprietors of *Reviews* and *Magazines*, and other periodical publications, should not be made amenable to the law for *enregistering* their names as well as the *proprietors* of *daily* and *weekly* papers? I do not pretend, that any proprietor at all *ought* to be made so liable, though I do not see any great objection to it. This is quite a *new* thing in our laws. But, I contend, that there is no reason whatever for the making of the latter liable to such regulations, which reason must not apply with equal force to the case of the former. —The publication of any thing the *truth* of which can be proved, ought, in my opinion, to be considered as *legal*, as it is, I understand, now established by express law in the state of New York. And, the only check upon persons disposed to publish mischievous truths from malignant motives, would be the reproach, or ill opinion, of their neighbours; which, indeed, would be an

effectual check. But, if the *name* of the *author* and of the *proprietor* were kept from the public; if there were no means of coming at those names; then there would be no check at all to an author, or proprietor, who was able to pay a venal wretch for encountering the detestation of his neighbours and of the public.—But, be the opinions of men what they may upon this point, there can be no doubt, I think, that the names of the proprietors of *Reviews* and *Magazines* and all other periodical publications, ought to be enregistered, if the names of the proprietors of *daily* and *weekly* papers ought to be enregistered. If it be right that the names of the latter should be inscribed in the government records, why not the names of the former; and especially while, under the title of *literary criticisms*, they deal in factious politics, and are, in fact, some of the most calumnious writers of the day? The names of these *learned gentlemen* would not, in some cases, do any good to their works, indeed; but that can be no reason for their being kept from the public eye. They ought to be known; and the authors ought to be known, too, for *what they are*. They ought no longer to be hidden behind the curtain.

PRISONERS OF WAR.—In the present Number I begin the insertion of the Official Documents relating to the late negotiation for an exchange of Prisoners of War, between England and France. These papers we shall, hereafter have to observe upon; for, it never can be imagined, that they are *answered* by calling the French negociator “the son of Jacobinism,” at is done by a most voluminous writer in the Times. The French writer is no more to be answered in this way than Massena is to be fought in this way; for he, too, may be called “the son of Jacobinism.” Such expressions may afford a momentary gratification to some few weak persons; but, such writers may be assured, that they will have no effect at all with any man of sense. Such men will ask for an *answer* to the *Moniteur*, and for the *beating* of Massena, and will care not a straw whether they be sons of Jacobinism, or not.

PORTUGAL. THE WAR.—Really this adventure begins to wear a lowering aspect. No battle yet. We were to have a battle in six days. Marshal General had drawn

dras. Oh! how many falsehoods has this “thinking people” sucked in, since I have been in Newgate, about which time the campaign in Portugal began. I have, during this campaign, had better opportunities of watching the progress of the delusions practised upon the public; and, really, though I had a pretty full persuasion, that no nation ever was so cheated, I had before but an imperfect conception of the extent of such cheaterly.—The accounts we now receive from Portugal are very barren; but, they contain quite enough to convince me, that the state of our affairs is of a most unpromising nature; for, while the proclamations issued at Lisbon clearly show the great distresses there from the scarcity of provisions, we now know that the French have an abundance of every thing, and that their army has received great reinforcements. That we shall be able to *attack* that army seems now to be no longer believed. What, then, is to be the *end* of all this? What is finally to be produced by the expending of all these millions of money? What sort of *protection* is Portugal finally to receive?

—These are questions, which, for the present, I must leave the reader to answer; but, that the whole of this war, the planning as well as the execution, must become matter of investigation, there can, I should suppose, be very little doubt.

KING'S ILLNESS. THE REGENCY.—From the reports and statements, published in the news-papers since my last, it would appear that his Majesty is in a worse state than he has been, at any time since the commencement of his malady. Of the *truth* of this, however, I can know nothing; and, a very good rule for the public to observe is, to believe *nothing* that they see upon the subject in the news-papers; for, the fact is, none of us know, or can know, any thing at all of the matter.—With regard to the proposed *Regency*, however, every man may know something, and may offer his opinion thereon. I have offered mine pretty fully already, and I was, I believe, the first public writer who did express any opinion at all upon the subject.—Every day's events since that time, and every opportunity for reflection, have tended to convince me, that my opinion was correct.—There has appeared, in the ministerial news-papers, and particularly in the *Courier* of the 21st instant, an article giving a history of what has taken place



between the Prince of Wales and his Brothers and the Minister, Mr. Perceval, relating to the proposed Regency. I shall insert this article here, not only as a document to be referred to hereafter, but as a subject for present commentary.—“The Chancellor of the Exchequer has not yet had an interview with the Prince; though it was confidently stated yesterday that he had had. But he requested to be honoured with one in a respectful Letter which he addressed to his Royal Highness, inclosing for his Royal Highness’s consideration, the plan of the proceeding for a Regency, with certain limitations, which it was his intention to submit to the House of Commons; and expressing a hope that he might be honoured with his Royal Highness’s command to wait on him to know his pleasure on the subject.—The Prince of Wales signified to Mr. Perceval, that as no step had yet been taken on the subject in the two Houses of Parliament, he did not think it consistent with his respect for the two Houses to give any opinion on the course of proceeding which had been submitted to him. On a former occasion it was not until the Resolution had been come to by both Houses, that the matter was submitted to him; and then he had felt it to be his duty to express his opinion distinctly on the subject; and to that opinion he had ever since invariably adhered; and the answer of his Royal Highness concludes with expressing his most earnest wishes that the speedy re-establishment of his Majesty’s health would make any measure of the kind unnecessary.—This Answer was sent to Mr. Perceval on Wednesday evening.—The Prince of Wales communicated to all the branches of his illustrious family, the Plan of the Regency, which had been transmitted to him, upon which the *whole of the Royal Dukes*, with one consent, drew up a Declaration and Protest, which they signed, stating in substance:—“That, understanding from his Royal Highness the Prince of Wales, that it was intended to propose to the two Houses, the measure of supplying the Royal Authority, by the appointment of a Regency, with certain limitations and restrictions, as described; they feel it to be their duty to declare, that it was the unanimous opinion of all the male branches of his Majesty’s family, that they could not view this mode of pro-

ceeding without alarm, as a Regency so restricted, was inconsistent with the prerogatives which were vested in the Royal Authority, as much for the security and benefit of the people, as for the strength and dignity of the Crown itself; and they, therefore, most solemnly protest against this violation of the principles which placed their family on the Throne.” To this Declaration and Protest we understand an Answer was last night received by the Princes from the Chancellor of the Exchequer, in which, after the usual recital of the tenor of the Royal Document, he proceeds to state—“That he had submitted it to the consideration of his Majesty’s confidential Servants—that however much they had to regret that the course of proceeding which they had adopted on the melancholy occasion of his Majesty’s illness, had not had the good fortune to receive the approbation of the illustrious persons, the male branches of the Royal Family, yet they continued to consider it as the only legal and constitutional course in which they could be supported by precedent, at it was the course prescribed in the year 1788-9—when it had not only been adopted, after long and painful discussion, by the two Houses of Parliament, but had received the universal approbation of the country at large—and they were still further gratified by the reflection, that on the re-establishment of his Majesty’s health, the proceedings pursued in Parliament upon that occasion had received his Majesty’s gracious confirmation, and had been even honoured with expressions of his personal gratitude.”—Now, if all this be true, it will serve to explain a good deal of what was before not easily to be reconciled to reason.—The Prince tells Mr. PERCEVAL, that he remains firm in his opinions, expressed in 1788; and this Mr. Perceval learns from him on the Wednesday. On Thursday the parliament meets, and now, for the first time, we hear that the limitations of 1788 are to be again resorted to; we hear this, for the first time, after the Prince has declined to admit Mr. Perceval to an interview!—The public will bear this in mind. They will also bear in mind, that the ministerial prints, for several weeks, and from the moment that a Regency was first talked of, always

were forward to say, that, as to *limitations*, the difference of circumstances would render those of 1788 *unfit* for the present time. This, as the public will well remember, was stated by those prints over and over again. But, they THEN said, that they were well informed, that His Royal Highness the Prince, MEANT TO MAKE NO CHANGE IN THE MINISTRY.—The public will bear this in mind. This is what ought never to be lost sight of. The two assertions ran together; 1st, that the circumstances of the present times *did not call for the limitations* of 1788, and, 2nd, that the Prince meant to make *no change in the ministry*.—At this time they affected to laugh at the Opposition, whom they described as having received “an intimation from a certain quarter, that their talents *would not be wanted*.” They told them, that they would still have to wander in the dreary shades of Opposition. They jeered them without mercy. All the town knows, that a report was, all this while industriously spread, that the Prince had settled every thing with the present ministers, who were to propose for him an *unlimited* Regency, and who, in return, were to be kept in place.—But, now behold! when this report turns out to be false, as every man of discernment knew it to be from the first; when it appears that the Prince of Wales adheres to the principles declared by him twenty two years ago; and, when it further appears, that he has declined to admit a visit from Mr. Perceval; now these same prints defend the project for *reviving the limitations of 1788 in their full extent*, though they had, while they told us that the Prince meant to make *no change in the ministry*, expressly said, that those limitations would be *unfit* under the *change of circumstances* that had now taken place. Now that these venal prints find, that the Prince would not admit Mr. Perceval to an interview, they can no longer see any unfitness in the limitations of 1788, and have entirely lost sight of all the important change in the circumstances.—This is too plain for any man to misunderstand; and, understanding it, what man is there, who does not applaud the conduct of the Prince, and who does not clearly perceive, that he has pursued that line of conduct which was dictated by honour and by a just estimate of his own rights and of his duties towards the people? It is, therefore, for the people to show, in a regular and constitutional way,

that they entertain a due sense of what is due to him *from them* upon this momentous occasion.

W^m. COBBETT.

State Prison, Newgate, Tuesday,
December 25, 1810.

LIBEL CASE.

Prosecution of Messrs. CRADOCK and Joy, publishers of the Antijacobin Review, for a libel on the Revd. Dr. HODGSON.—Tried at Guildhall, 21 Dec. 1810—Before Ld. Ellenborough.

The ATTORNEY GENERAL stated, that this was an information against Messrs. Cradock and Joy, of Paternoster-row, for a libel published against the Rev. Fordsham Hodgson, Principal of Brazenose College, Oxford. An information against the defendants had been obtained in the Court of King's Bench, and they professed to be extremely surprised that it should have been obtained; but when the libel was stated, it would only appear surprising, that any man of common sense could doubt its tendency, and its fitness to be made the object of punishment. The libel was published in the Anti-Jacobin Review of last December, and was as follows:—“When a vacancy occurred in “Brazenose College, by the promotion of “the late Principal, Doctor Hodgson called on a senior Fellow of that College, “residing in the vicinity of London, and “enquired whether he meant to stand for “the situation. The senior Fellow immediately told him, that there was another who had stronger claims than either “of them; that he would acquaint him “with the vacancy, and give him his interest on the election. The senior Fellow wrote a letter to his friend, and the “Rev. Doctor Hodgson took the charge “of it, to put it in the post. It unfortunately, however, never reached the “person for whom it was designed, and “the worthy Doctor used the golden opportunity with so much ardour, that he “secured the prize; while the first intelligence of the vacancy reached the Gentleman alluded to, from the worthy “Doctor himself, as Principal of Brazenose College.”—The imputation in this was plain. Doctor Hodgson was accused of a most dishonest and base act. Were the defendants to be surprised, that they should be visited as the libellers? But they had another escape. They say, they only state facts, without comment or

observation. This in some cases might avail, but in the present it was actually worth nothing. They had been called on for the name of the informer: they had not thought proper to deliver him up, and it would now be left to the jury, whether the character of Dr. Hodgson was to be at the mercy of those libellers. The whole thing was unfounded. Dr. Hodgson had been at Liverpool till within two days of his election, and, therefore, his visit in the vicinity of London was altogether impossible.—The publication being proved,—Mr. Curwood, for the defendants, was sorry the defence had not fallen into abler hands; but the Jury would understand, that the expences of employing King's Counsel were the probable reasons of calling upon him, to meet the Attorney-general in a field, where that learned person's talents had been so fully exercised. The publication in question arose out of a subject which had exercised and divided some of the ablest minds in the Empire; it was the Catholic Question: and that heat and bickerings should have arisen from it could not be wondered at. The author of the paper was a man of great respectability, who had seen Dr. Hodgson singularly active at three different times against the Catholic claims, when they were discussed at Oxford. He next saw the Doctor equally active in supporting the election of Lord Grenville, a man who was conceived to be the leading advocate of the Catholic claims. But not to proceed farther in this history, there was no intention on the part of the defendants to affix any imputation on Dr. Hodgson's honour. He might be highly respectable for any intention which they had of representing him as otherwise.—The Learned Counsel here went into a short detail of the history of libel, ending with the Act by which the intention was made cognizable by the Jury. The publication could not convey to the feelings of a man of a rightly ordered mind, an idea of what was understood by libel. Let it be taken as it stood. The first paragraph narrated the visit, and the taking charge of the letter. This was no libel. The next said that the letter had, unfortunately, not reached its destination, and that the worthy Doctor had used this opportunity to obtain the prize. There was no libel in saying that a letter did not come to hand, or that the candidate for any situation was active in his canvass. The law required some plain,

obvious, tangible intent. If it were to be measured by feeling, nothing could be more vague than law. The excellent understandings of the Jury would suggest to them grounds of defence which might escape the Counsel; but they would be eminently cautious of allowing a precedent, which might affect the most harmless correspondence of any man in the community.—LORD ELLENBOROUGH said, that this indictment was preferred against the defendants for fastening an imputation of the most offensive kind upon the present Principal of Brazenose College. It was for the Jury to consider, whether such an injury must not and ought not to be felt most sensibly by a man holding the important situation of the prosecutor. Must not a charge involving the baseness of a breach of trust of the lowest kind be painful and injurious to a man, whose character might be so easily touched, and to whom perfect purity of reputation was necessary for his peculiar duties? The question for the Jury was, whether it was not a charge of the basest conduct, that a man entrusted with a letter, under the circumstances of the case, should have put it in the fire, or suppressed it, and taken advantage of his own act to forward his own purposes? Men might think differently, but for his (Lord Ellenborough's) part, he must feel the greatest reluctance in sitting down beside the person who could be guilty of so dishonourable an artifice. The case of trials for libel was like all others that came before a Jury; the Jury gave their verdict from a view of the circumstances, liable to the opinion of the Judge on the law of the case. In the present instance he could have no doubt in pronouncing the publication to be a libel. The Jury would, however, form their own opinion.—The Jury immediately returned a verdict of GUILTY.

OFFICIAL PAPERS.

NAPLES.—*Ceremony of burning English goods.*—4th Nov. 1810.

In pursuance of a Decree of his Majesty of the 4th inst. and in obedience to the orders of the Minister of Finance, the Director General of the Customs, accompanied by the Inspector General and the Director, proceeded to the chief-custom-house of this Capital, and caused to be delivered to him the keys of all the principal warehouses. He proceeded to a

minute and rigorous examination of all the British merchandize produced by prizes, sequestration, or confiscation in the custom-house.—All these articles were composed of muslins, chintzes, Manchester goods, calicoes, painted floor-cloths, India goods, cotton cloths and velvets, iron-mongery, tin, and other merchandize, amounting to more than 60,000 ducats. A great fire was kindled in the square, where all these commodities were unpacked, opened, and burned piece by piece, under the inspection of a numerous detachment of custom-house-officers, under the orders of their principal. The fire lasted from noon to five o'clock.—So novel a sight attracted an immense crowd. The greatest order prevailed. It was even perceived that the public manifested sentiments of satisfaction at seeing a conflagration, which, independent of the fatal blow that it gives to English commerce, announces to that Government the fate which awaits all the productions of her industry that traitorous artifices may throw upon our coasts.

FRANCE.—*Decree of the Emperor, relating to the Pope's Palace.*—8th Nov. 1810.

Napoleon, by the Grace of God and the Constitution, Emperor of the French, King of Italy, Protector of the Confederation of the Rhine, Mediator of the Swiss Confederation, &c. &c.—Considering the 15th article of the Senatus Consultum of the 17th February, stating that there should be prepared for the Pope palaces in the different places of the Empire where he might choose to reside, and that there would necessarily be one at Paris and one at Rome: upon the report of our Minister of Religious Worship, we have decreed and do decree as follows:—Article 1. The Palace of the Pope, at Paris, shall be the ancient Palace of the Archbishop, which will be embellished, and have an augmentation in domains and buildings, agreeably to our Decree of the 10th of February last; together with the furniture, the purchase of which was ordered by the same Decree.—2. The Archbishop of Paris shall only remain in this palace during the time that it is unoccupied by the Pope.—3. Our Minister of Religious Worship is charged with the execution of the present Decree.

SAXE-GOTHA.—*Order, relative to English Goods,* 28th Oct. 1810.

We, Charles Frederick, &c. — By a former order of the 31st March, 1810, the admission of English goods into our dominions was forbidden, but since that period, we have learnt that this law has been frequently evaded. We therefore have been induced to command, that it shall be carried into execution with the greatest severity, and that it shall embrace all colonial produce according to the general system of the Continent.—We, therefore, have decreed,—I. That all English goods in the public warehouses, or private stores, shall from this day be confiscated.—II. The Custom House Officers are commanded to commence the strictest examinations into the nature and quantity of colonial produce in all places, and they are to take possession of the same, and clear it away into the public receptacles. They are likewise ordered to seize all English goods on their transit, and to send in inventories of the same to the Secretary of our Government as soon as possible.

SWEDEN.—*Letter of Bernadotte to the King, upon landing in Sweden, and in answer to the King's presenting him with the Swedish Orders,* 1st Nov. 1810.

Sire; Conscious that the repeated honours done me, not only by your Majesty, but by the Swedish Nation, can never be recompensed, I cannot but labour under great difficulty, in the expression of the gratitude I feel to so noble a King of so noble a Nation. Your Majesty and the People of Sweden may rest fully assured, that their interests and welfare shall ever be nearest my heart, and that I will rather sacrifice that life which they have deemed worthy of such distinction, than suffer them to be injured or encroached upon.—It could not be without some degree of pain and reluctance that I accepted the high dignity of being made Crown Prince of Sweden, aware as I am of my incapacity, born and bred a soldier, to perform the arduous and important duties of that station. The honours with which your Majesty has been graciously pleased to invest me, shall never be sullied by the wearer; and it shall be my constant study to add new lustre to their brightness. Feeling myself, as I have already observed, wholly incompetent to express my gratitude, I have the great honour to be your Majesty's most humble, devoted, and affectionate, &c.

FRANCE.—*Circular Letter to the Bishops, relative to the Pregnancy of the Empress, 11th Nov. 1810.*

To the Archbishops and Bishops.—M. the Bishop of ———. It is with the most infinite satisfaction that I am able to announce to you the happy pregnancy of the Empress, my very dear spouse and companion. This proof of the benediction of God spreading over my family, and which imparts such happiness to my people, induces me to write you this letter, to inform you that it will be most agreeable to me that you ordain particular prayers for the preservation of her person. I pray God, M. the Bishop ———, to hold you in his holy keeping.—NAPOLEON.—*Done at our Palace at Fontainebleau, Nov. 11, 1810.*

FRANCE.—*Letter of Napoleon to the President of the Senate, relative to the Pregnancy of the Empress.—12th November, 1810.*

M. Le Conte Garnier, President of the Senate. The satisfaction which we experience in consequence of the pregnancy of our very dear and well-beloved spouse has induced us to write you this letter, in order that you may in our name communicate to the Senate this event, as essential to our happiness as it is to the interests and policy of our empire. The present having no other object, we pray God, M. le Comte Garnier, President of the Senate, to hold you in his holy and worthy keeping.

ITALY.—*Decree of the King, relative to English goods.—1st November, 1810.*

Art. 1. The Decree of the 31st of August of this year is repealed. The duties on goods therein named shall be paid according to the tariff affixed to our Decrees of the 24th Feb. 1809, and 16th May, 1810. Art. 2. From the day of the publication of the present Decree, throughout our Kingdom of Italy, no other kinds of cloths, cottons or silks shall be permitted, not obtained from manufactories in the Empire of France, and they shall be accompanied by the certificate of origin, a form to be directed by the French Government, with the necessary documents to give it authenticity, and to prevent fraud. Art. 3. Our minister of Finances is charged with the execution of this Decree.

FRANCE.—*Decree uniting the Valais to France.—12th November, 1810.*

Napoleon, &c.—Considering that the route of the Simplon, which connects the empire and our kingdom of Italy, is of use to more than sixty millions of people; that it has cost more to the Treasuries of France and Italy than eighteen millions, which expence would be entirely useless, if the trade through it did not find accommodations and security; that the Valais has not adhered to any of the engagements it entered into, when we ordered the works for opening this grand communication to be commenced; wishing, moreover, to put an end to the anarchy which prevails in that country, and to cut short the oppressive claims to sovereignty of one part of the population over the other, we have decreed and ordered as follows:—

Art. 1. The Valais is united to the Empire.—2. This territory is to form a department under the name of the Department of the Simplon.—3. This department will be included in the seventh military division.—4. Immediate possession shall be taken of it in our name, and a Commissary-General shall be appointed to govern it for the remainder of the year.—5. All our Ministers are charged with the execution of the present Decree.

FRANCE.—*Decree relative to the Press.—18th November, 1810.*

Napoleon, Emperor of the French, &c. &c.—On the report of our Minister of the Interior, respect being had to the 3d, 5th, and 6th articles of our decree of the 5th Feb. 1810, containing regulations with regard to printing and bookselling;—Considering that the reduction and settling of the number of printers must necessarily leave presses, founts, types, and other printing materials, in the possession of many individuals not licensed, or may make them pass into other hands; and that it is important to know the holders of them, and the use which they propose to make of them;—Our Council of State being heard,—We have decreed, and do decree as follows:—Art. 1. From the first of January, 1811, those of our subjects who shall cease to follow the business of printer, and, generally, all those who, not following the said business, shall find themselves proprietors, possessors, or holders of presses, founts, types, or other printing materials, must within one month make

declaration of the said articles, in the department of the Seine, to the Prefect of Police, and in the other departments, to the Prefect.—From this arrangement are excepted rolling presses, for the purpose of copying.—Art. 2. The Prefect of Police at Paris, and the Prefects of departments, shall transmit the said declarations to our Counsellor of State, Director-General of Printing and Bookselling, with their opinion, on applications to be authorized to keep the said presses and materials, for the purpose of continuing to use them, which applications must be subjoined to the declarations.—3d. Our Director-general of Printing and Bookselling shall render an account of every thing to our Ministers of the Interior and of Police, on the report of whom decision shall be given by us.—4th. Makers of images, dominos, and tapestry are subject to the dispositions contained in the 1st article of the present Decree.—5th. Acts in contravention to the present Decree shall be punished by imprisonment from six days to six months, and prosecuted and proved conformably to the regulations in sect. 2, title 8, of the Decree of the 3d Feb. 1810.—6th. Our Grand Judge, Minister of Justice, and our Ministers of the Interior and of general Police, are charged, each in his department, with the execution of the present Decree, which shall be inserted in the Bulletin of the Laws.

PRISONERS OF WAR.—*Official Documents, from No. I. to No. XVIII. (with an Introduction) relating to the late Negotiation for an Exchange of Prisoners of War, between England and France; Extracted from the Times news-paper, into which it had been translated from the French Paper, the Moniteur.*

INTRODUCTION.

Since the commencement of the present war, France and England have not had a single cartel for an exchange of prisoners. That which has opposed till this hour this object, so important to humanity, is, it is understood, a difference upon the following points:—England will consider only her own subjects as prisoners. She will not extend this advantage of an exchange to the Germans, Spaniards, Portuguese, and her other allies, fighting in her cause, or joined with her own army.—The second point in dispute is the capitulation of General Walmoden, on the conquest of Hanover, 17,000 men then surrendered

prisoners of war. England will not acknowledge them, although the greater part of them, officers as well as soldiers, have since entered into her service, in violation of the capitulation, and of the law of nations.—During eight years these points have created long discussions.—In April, 1810, an English Commissary arrived at Morlaix. To remove these difficulties a negotiation was commenced, which lasted eight months without success.—France proposed two bases:—The first was, to renew that of 1780. By the cartel of 1780, the prisoners of both nations were exchanged *en masse*, covering the difference by a sum of money.—This basis being declined, France proposed a total exchange of prisoners of the two belligerent masses, man for man, rank for rank. The men who formed a part of the same army, who joined in the same movements, and co-operated in the same operations, were sureties for each other. In proposing this second basis, France went too far; she consented to give up her surplus of Spanish prisoners, that is to say, she would abandon more than 20,000 prisoners beyond the number she should exchange.—This second basis alone was discussed during eight months. England pretended to adopt the principle. The exchange was deemed concluded; but in her proposal for a cartel, England exposed her true views. It was observed, that while she appeared to adopt the principle of the exchange, she held out a snare. She endeavoured under this pretext to withdraw the prisoners that she has in France, in exchange for an equal number of French prisoners which are in England; and she would then find some pretext for detaining the remaining 20,000 Frenchmen who should still remain unexchanged, leaving in France the Spaniards, about whom she cares nothing. This trick was too gross; England accepted the principle of a general exchange, and at the same time reserved to herself the power of making only a partial exchange, when she should have all her own prisoners in London; for it certainly was not the value which she put upon the Spanish prisoners, that would have induced her to respect the treaty, and send the remainder of the French prisoners to France. The English negotiators termed this a concurrence in the principle of the exchange, man for man, and rank for rank; of the two masses of prisoners, but not to be accomplished simultaneously; therefore they threw

down the mask, and broke off the negotiation, when the conditions of a cartel were presented, which should be executed with good faith, and founded upon the principle, that is to say, making an exchange of 3,000 Frenchmen and their allies, against 3,000 English and their allies, in the proportion in which they should be found in the masses, that is to say; 3,000 French against 1,000 English and 2,000 Spaniards. With respect to the capitulation of Walmoden, they could not come to an agreement on it. England would give no more than 3,000 French for the 17,000 Hanoverians. France, from a spirit of conciliation, reduced her pretensions to one-third, that is to say, to 6,000 French, although it was proved that, of the 17,000 Hanoverians, more than 9,000 had served, or were serving now, in the English ranks.—After this preamble, the *Moniteur* contains eighteen official papers:—

No. I. May 23, is a short note from M. Dumoustier, inclosing the following project for a cartel:—

No. II.—*Plan for a Cartel*—Art. I. All the French, Italians, and all others in the service of France or Italy, all the Dutch and Neapolitans, and all other subjects of Powers friendly to France, or in the service of these Powers, who are at present prisoners of war in England in Spain, Sicily, Portugal, the Brazils, or in any other country, the ally or dependent of England, or occupied by English troops, shall be set at liberty, without exception or regard to rank or quality.—The same shall take place with respect to Russians, Danes, and all others in the service of Russia and Denmark, who are prisoners of war in England, or in countries allied to or dependent on England.—II. All English, and all others in the service of England, all Sicilians, Portuguese, Spaniards, Hanoverians, and other subjects of Powers allied to England, and all others in the service of these Powers, who are at present prisoners of war in France, Italy, Holland, Naples, or any other country the ally or dependent of France, or occupied by French troops, shall be set at liberty, without exception, or regard to rank or quality.—The same shall take place with respect to prisoners of war belonging to England and her Allies, at present detained in Russia, or Denmark, and in countries allied to or dependent on these Powers.—III. It is understood that in execution of the two preceding articles,

every prisoner of war, belonging to the two belligerent masses, made before, up to, and inclusive of the day of signing the present cartel, shall be liberated within a period which shall be ulteriorly agreed upon for each country above mentioned.

—IV. The execution of the above articles shall take place in the following manner:

—1st, All prisoners of war of France and Italy, detained in England or in English possessions or dependencies, of whatever rank or quality, shall be conveyed, without delay and in mass, to their country, where they shall be given up to French Commissaries named to that effect.—2dly. All prisoners of war of England, detained in France, in Italy, and in the dependencies of France and Italy, of whatever rank or quality, shall be conveyed, without delay, and in mass, to their country, where they shall be given up to English Commissaries appointed for that purpose.—3dly. All the Hanoverians forming part of the army of Hanover, who have been or are in the service of England, shall remain undisturbed in their property: they shall be considered as exchanged by this cartel, or to have been so; and those of that army, at present in Hanover, shall be freed from the obligation imposed upon them by the capitulation of —. 4thly.

All French detained in Spain, or in the countries belonging to Spain, and all Spaniards detained as prisoners of war in France or in Spain, being to be set at liberty, the exchange shall take place either through the medium of the French Generals and the Governments of the Spanish towns which are opposed to them, or by sending by sea to Toulon or Rochefort the French detained in the different towns and isles of Spain, or by being sent to the advanced posts of the different corps of the French army in Spain.—5thly. The liberation of Spaniards, prisoners of war in France, shall take place by successive convoys, to England or the different towns of Spain, which shall be agreed upon, of 500 Spaniards for 500 French, in proportion as the latter shall have been given up by the Spanish Government. When all the French prisoners of war detained in Spain shall have been thus exchanged for an equal number of Spanish prisoners, all that remain of Spanish prisoners in the power of France, made before, up to, and inclusive of the day of signature of this cartel, shall be sent to England, or to such towns in Spain as may be agreed upon; in such way, that in fulfilment of this ar-

article there shall not remain in France any of the said Spanish prisoners of war.—6thly. The mode of liberating the Portuguese and Sicilian prisoners of war, detained in France, shall be the same with that pointed out in the preceding article.—V. The British Government, in application of the principles agreed upon in the present cartel, shall come to an understanding with the Russian and Danish Governments, as to what concerns each of these Governments.—VI. There shall be appointed a French Commissary, and an English Commissary, to reside, the former in London and the latter in Paris, for the purpose of watching over the execution of the Convention.—VII. Provision shall be made, by a particular convention, for what regards prisoners, who may be made ultimately on either side, so as to alleviate the misfortunes of war by all that humanity can inspire in favour of those who are its victims.

No. III. May 25. Note from Mr. Mackenzie, stating, that as he was not prepared to treat for a general exchange of prisoners belonging to all the belligerent Powers, he therefore asks permission to write to his government.

No. IV. May 26. M. Dumoustier declares to Mr. Mackenzie, that if England will not accede to the principle of general and absolute liberation of all the prisoners of war of the two belligerent masses, he is authorised to propose the cartel of 1780 between France and England as the basis.

No. V. June 23. A note from Mr. Mackenzie to M. Dumoustier, announcing that the counter-project is arrived from London.

No. VI. Is the project, which is in substance the same with a second project presented on the 22d September, and which was inserted in p. 1044.

No. VII. July 2.—Note of M. Dumoustier.—The undersigned Commissary appointed for the exchange of French prisoners of war, has laid before his Government the note and counter-project of cartel which Mr. Mackenzie sent to him on the 3d of June. He has received orders to make to them the following reply:—The counter-project presented by Mr. Mackenzie in the name of his Government, for the establishment of a Cartel, lays down, like the project of the under-

signed, the principle of the general liberation of the prisoners of the belligerent masses. Once agreed upon that point, it would appear impossible not to agree upon the means of its execution; for we have not agreed upon the principle, in order to adopt, on the one side or the other, such measures as may tend to annul or elude its most important consequences.—It is in this point of view that the counter-project becomes the subject of consideration.—It has for object to make at first a partial exchange of English prisoners for an equal number of French prisoners, and then to make the exchange of the remainder of the French prisoners depend upon the result of the negotiations which shall be opened for that purpose with the Spanish Juntas.—But these Juntas are not a single Government; that of Galicia has nothing in common with the Junta of Cadiz, nor the latter with that of Valencia.—These Governments change their course every instant, according to the popular storms; no business can be of a consecutive nature with them; and the liberation of the French prisoners who shall remain in England cannot be submitted to the decisions of such assemblies.—The French Government is convinced that the Juntas of Galicia, Valencia, and other insurgent Governments in Spain, will have submitted or disappeared very shortly; therefore it becomes evidently impossible to execute with them the paragraphs 11 and 12 of the article 4 of the counter-project of the British Government; and at the same time it may be foreseen that England may refuse to liberate French prisoners who may remain in her power after the exchange of English prisoners.—Thus the adoption of the counter-project to the British will be no more than a partial exchange, which liberates the whole of the English prisoners, and part of the French prisoners only; and the general principle of liberation, on which both Governments agree, will be unexecuted.—Whether the Spanish Juntas shall refuse the proposed exchange, or that it will be found impossible to treat with these meetings, or that they are on the eve of dissolution, are three obstacles in the way of the execution of the paragraphs cited in articles XI and XII, and which must prevent the liberation of the French in the English prisons.

(To be continued.)